

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
BRIAN K. WHITE,

Plaintiff,

-v.-

DISTROKID et al.,

Defendants.
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ORDER

22 Civ. 2205 (VEC) (GWG)

GABRIEL W. GORENSTEIN, United States Magistrate Judge

Defendants Distrokid, LLC and Kid Distro Holdings, LLC (“Distrokid”) have filed a motion to dismiss plaintiff’s claims against them on a number of grounds. One of those grounds is premised on Distrokid’s contention that the Album, see Amended Complaint, ¶ 35, is a joint work of plaintiff and defendant Eunice Rivers within the meaning of 17 U.S.C. § 101. See Docket # 77, at 4-6.

Plaintiff does not address this argument in his brief, instead addressing the question of whether the “Original Beats” is a joint work. See Docket # 84, at 6-7. On the issue of whether the Album is a joint work, the plaintiff’s brief side-steps the question, arguing that “even if” plaintiff and Rivers were joint authors, this fact would be a “red herring.” Id. at 7.

The Court may not be in agreement with plaintiff that the issue is a “red herring” in the event that the Album was determined to be a joint work. Accordingly, the Court will require plaintiff to state his contention as to whether the Album is or is not a “joint work” within the meaning of 17 U.S.C. § 101. The plaintiff’s response shall be contained in a letter filed on or before May 16, 2024. Plaintiff is given leave to add to this letter any legal arguments that may be relevant to or flow from his response to this Order. Distrokid may file its response to plaintiff’s letter on or before May 23, 2024.

The parties may adjust these dates by mutual agreement and without seeking leave of the Court by filing a letter on ECF setting forth the new agreed briefing schedule.

SO ORDERED.

Dated: May 9, 2024

New York, New York



 GABRIEL W. GORENSTEIN
 United States Magistrate Judge